

PUBLIC EDUCATION INCREASED FUNDING PROGRAM

2015 GENERAL SESSION

STATE OF UTAH

LONG TITLE**General Description:**

This bill amends income tax provisions and provides for public school funding.

Highlighted Provisions:

This bill:

- ▶ increases the income tax rate imposed on an individual's state taxable income from 5% to 6%;
- ▶ creates the Income Tax Growth Account within the Education Fund;
- ▶ requires the increased collections from the state's income tax to be deposited into the Income Tax Growth Account;
- ▶ subject to legislative appropriation, requires the State Board of Education to distribute money from the Income Tax Growth Account to local education agencies (LEAs) through the Pay for Performance Incentive Pay Program and the Digital Teaching and Learning Technology Program;
- ▶ creates the Pay for Performance Incentive Pay Program;
- ▶ requires an LEA to develop a pay for performance incentive payment plan to distribute incentive payments to outstanding classroom teachers within the LEA and submit the plan to the State Board of Education for approval;
- ▶ creates the Digital Teaching and Learning Technology Program;
- ▶ provides that an LEA may use money received from the Digital Teaching and Learning Technology Program for certain purposes;
- ▶ defines terms; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill takes effect for a taxable year beginning on or after January 1, 2016.

Utah Code Sections Affected:

33 AMENDS:

34 **59-10-104**, as last amended by Laws of Utah 2008, Chapter 389

35 ENACTS:

36 **53A-16-201**, Utah Code Annotated 1953

37 **53A-16-202**, Utah Code Annotated 1953

38 **53A-16-203**, Utah Code Annotated 1953

39 **53A-16-204**, Utah Code Annotated 1953

40 **53A-16-205**, Utah Code Annotated 1953

41 **53A-16-206**, Utah Code Annotated 1953

42 **59-10-552**, Utah Code Annotated 1953



44 *Be it enacted by the Legislature of the state of Utah:*

45 Section 1. Section **53A-16-201** is enacted to read:

46 **Part 2. Public Education Increased Funding Program**

47 **53A-16-201. Public Education Increased Funding Program.**

48 This part is known as the "Public Education Increased Funding Program."

49 Section 2. Section **53A-16-202** is enacted to read:

50 **53A-16-202. Definitions.**

51 As used in this part:

52 (1) "Account" means the Income Tax Growth Account created in Section 53A-16-203.

53 (2) "Board" means the State Board of Education.

54 (3) "Educator" means an individual who holds or is required to hold a license under

55 Title 53A, Chapter 6, Educator Licensing and Professional Practices Act.

56 (4) "LEA" or "local education agency" means

57 (a) a school district;

58 (b) a charter school; or

59 (c) the Utah Schools for the Deaf and the Blind.

60 Section 3. Section **53A-16-203** is enacted to read:

61 **53A-16-203. Income Tax Growth Account.**

62 (1) There is created within the Education Fund a restricted account known as the

63 "Income Tax Growth Account."

64 (2) The account consists of amounts appropriated into the account in accordance with
65 Section 59-10-104.

66 (3) Interest earned on the account shall be deposited into the account.

67 (4) Upon appropriation by the Legislature, the board shall use:

68 (a) 75% of the money from the account to fund the Pay for Performance Incentive Pay
69 Program as provided in Section 53A-16-204; and

70 (b) 25% of the money from the account to fund the Digital Teaching and Learning
71 Technology Program as provided in Section 53A-16-205.

72 Section 4. Section **53A-16-204** is enacted to read:

73 **53A-16-204. Pay for Performance Incentive Pay Program.**

74 (1) (a) As used in this section, "classroom teacher" means a permanent teacher:

75 (i) who is a licensed educator;

76 (ii) who is paid on the teacher's salary schedule;

77 (iii) who is hired for an entire contract period; and

78 (iv) whose primary function is to provide instructional or a combination of
79 instructional and counseling services to students in public schools.

80 (b) "Classroom teacher" includes a teacher who:

81 (i) job-shares with one or more teachers; and

82 (ii) meets the description of a classroom teacher in Subsection (1)(a).

83 (2) (a) There is created the Pay for Performance Incentive Pay Program to provide
84 incentive payments to outstanding classroom teachers.

85 (b) The board shall distribute money appropriated for the Pay for Performance
86 Incentive Pay Program to LEAs as described in Subsections (3), (4), and (5).

87 (3) (a) The board shall distribute funding to charter schools for the Pay for
88 Performance Incentive Pay Program in an amount equal to the product of:

89 (i) enrollment on October 1 in the prior year in charter schools statewide, divided by
90 enrollment on October 1 in the prior year in public schools statewide; and

91 (ii) the total amount available for distribution under this section.

92 (b) The amount available for distribution to charter schools shall be allocated among
93 charter schools in proportion to each charter school's enrollment as a percentage of the total
94 enrollment in charter schools.

95 (4) The board shall distribute funding to the Utah Schools for the Deaf and the Blind
96 for the Pay for Performance Incentive Pay Program in an amount equal to the product of:

97 (a) enrollment on October 1 in the prior year at the Utah Schools for the Deaf and the
98 Blind, divided by enrollment on October 1 in the prior year in public schools statewide; and

99 (b) the total amount available for distribution under this section.

100 (5) Of the funds available for distribution under this section after the allocation of
101 funds for the Utah Schools for the Deaf and the Blind and charter schools, the board shall
102 distribute:

103 (a) 10% of the funds to school districts on an equal basis; and

104 (b) the remaining 90% of the funds to school districts on a per student basis.

105 (6) (a) To receive an allocation under this section, an LEA shall:

106 (i) submit, prior to July 1, 2016, a written pay for performance incentive payment plan
107 to the board that conforms to guidelines established by the board in rule; and

108 (ii) receive approval of the plan by the board.

109 (b) The LEA shall provide specific information in the LEA's pay for performance
110 incentive payment plan about how the LEA intends to spend its allocation, including:

111 (i) criteria for awarding pay for performance incentive payments to classroom teachers;

112 (ii) the instruments or assessments that may be used to measure or evaluate
113 performance;

114 (iii) the amount of pay for performance incentive payments that may be awarded; and

115 (iv) whether the pay for performance incentive payments will be based on individual,
116 team, or school-based performance, or a combination of those.

117 (c) The board shall send the approved plans to the Executive Appropriations
118 Committee and the Education Interim Committee by September 1, 2016 for review and
119 comment.

120 (7) (a) An LEA that is a charter school shall include an evaluation system as part of the
121 LEA's pay for performance incentive payment plan described in Subsection (6).

122 (b) The charter school's evaluation system described in Subsection (7)(a) shall include
123 the following components:

124 (i) the annual evaluation of all classroom teachers; and

125 (ii) a summative evaluation that differentiates among four levels of performance.

126 (c) A charter school may not award a pay for performance incentive payment to a
127 classroom teacher if the classroom teacher's rating on the most recent evaluation is at the
128 lowest or second lowest level of an evaluation instrument that differentiates among four levels
129 of performance as required in Subsection (7)(b).

130 (8) An LEA that is a school district or the Utah Schools for the Deaf and the Blind:

131 (a) shall align the LEA's pay for performance incentive payment plan described in
132 Subsection (6) with the LEA's annual evaluation system created in accordance with Title 53A,
133 Chapter 8a, Part 4, Educator Evaluations; and

134 (b) may not award a pay for performance incentive payment to a classroom teacher if
135 the classroom teacher's rating on the most recent evaluation is at the lowest or second lowest
136 level of an evaluation instrument that differentiates among four levels of performance as
137 described in Section 53A-8a-405.

138 (9) (a) An LEA shall award pay for performance incentive payments to classroom
139 teachers from money distributed under this section beginning with the 2016-17 school year.

140 (b) Pay for performance incentive payment money may only be used in accordance
141 with an LEA's pay for performance incentive payment plan.

142 Section 5. Section **53A-16-205** is enacted to read:

143 **53A-16-205. Digital Teaching and Learning Technology Program.**

144 (1) (a) There is created the Digital Teaching and Learning Technology Program to
145 improve school level outcomes through the use of digital teaching and learning technology and
146 educator professional development.

147 (b) The board shall distribute money appropriated for the Digital Teaching and
148 Learning Technology Program to LEAs as provided in this section.

149 (2) (a) The board shall distribute funding to charter schools for the Digital Teaching
150 and Learning Technology Program in an amount equal to the product of:

151 (i) enrollment on October 1 in the prior year at of charter schools statewide, divided by
152 enrollment on October 1 in the prior year in public schools statewide; and

153 (ii) the total amount available for distribution under this section.

154 (b) The amount available for distribution to charter schools shall be allocated among
155 charter schools in proportion to each charter school's enrollment as a percentage of the total
156 enrollment in charter schools.

157 (3) The board shall distribute funding to the Utah Schools for the Deaf and the Blind
158 for the Digital Teaching and Learning Technology Program in an amount equal to the product
159 of:

160 (a) enrollment on October 1 in the prior year at the Utah Schools for the Deaf and the
161 Blind, divided by enrollment on October 1 in the prior year in public schools statewide; and

162 (b) the total amount available for distribution under this section.

163 (4) Of the funds available for distribution under this section after the allocation of
164 funds for the Utah Schools for the Deaf and the Blind and charter schools the board shall
165 distribute:

166 (a) 10% of the funds to school districts on an equal basis; and

167 (b) the remaining 90% of the funds to school districts on a per student basis.

168 (5) Beginning with the 2016-17 school year, an LEA may use money received from the
169 Digital Teaching and Learning Technology Program for the following purposes:

170 (a) wireless network infrastructure or infrastructure related to digital teaching and
171 learning;

172 (b) digital licensed and unlicensed content, resources, and programs;

173 (c) software that provides a digital learning platform;

174 (d) technology support services;

175 (e) consultation services related to digital teaching and learning; and

176 (f) professional learning for educators, administrators, and support staff related to
177 digital teaching and learning.

178 (6) Beginning with the 2017-18 school year, in addition to the purposes described in
179 Subsection (5), an LEA may use the money received from the Digital Teaching and Learning
180 Technology Program for hardware related to digital teaching and learning, including laptop
181 computers or mobile devices.

182 Section 6. Section **53A-16-206** is enacted to read:

183 **53A-16-206. Accountability -- Reporting requirements.**

184 (1) If an LEA uses pay for performance incentive payment program money for
185 purposes other than those stated in the LEA's pay for performance incentive payment plan, the
186 LEA shall reimburse the money that was improperly used.

187 (2) If an LEA uses Digital Teaching and Learning Technology Program money for

188 purposes other than those stated in Subsections 53A-16-205(5) and (6), the LEA shall
189 reimburse the money that was improperly used.

190 (3) An LEA that awards pay for performance incentive payments from money
191 distributed under Section 53A-16-204 shall report the following information to the board:

192 (a) the number of educators who received pay for performance incentive payments;

193 (b) the total number of educators;

194 (c) the average pay for performance incentive payments awarded to educators; and

195 (d) the maximum pay for performance incentive payments awarded to an educator.

196 (4) The board shall report the information described in Subsection (3) to the Executive
197 Appropriations Committee by June 30, 2017.

198 (5) The board may make rules as necessary to administer this part, in accordance with
199 Title 63, Chapter 46a, Utah Administrative Rulemaking Act.

200 Section 7. Section **59-10-104** is amended to read:

201 **59-10-104. Tax basis -- Tax rate -- Exemption.**

202 (1) [~~For taxable years beginning on or after January 1, 2008, a~~] A tax is imposed on the
203 state taxable income of a resident individual as provided in this section.

204 (2) For purposes of Subsection (1), for a taxable year, the tax is an amount equal to the
205 product of:

206 (a) the resident individual's state taxable income for that taxable year; and

207 (b) [~~5%~~] 6%.

208 (3) This section does not apply to a resident individual exempt from taxation under
209 Section 59-10-104.1.

210 Section 8. Section **59-10-552** is enacted to read:

211 **59-10-552. Distribution of certain revenue for education.**

212 (1) For purposes of this section, "increased collections from the state's income tax"
213 means an amount equal to the difference between:

214 (a) the amount of money collected for a taxable year by the state by imposing a 6%
215 income tax on the state taxable income of a tax under this chapter; and

216 (b) the amount of money that would have been collected by the state during the same
217 taxable year if the state had imposed a 5% income tax on the state taxable income of a tax
218 under this chapter.

219 (2) Beginning January 1, 2017, the commission shall annually deposit an amount equal
220 to the increased collections from the state's income tax into the Income Tax Growth Account
221 created in Section 53A-2-203.

222 Section 9. **Effective date.**

223 This bill takes effect for a taxable year beginning on or after January 1, 2016.